

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

THOMAS J. KELLY, III

Plaintiff,

v.

MORGAN & MORGAN, P.A.

MORGAN & MORGAN PHILADELPHIA
MANAGEMENT, INC.

MORGAN & MORGAN PHILADELPHIA,
PLLC

Defendant.

Docket No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Thomas J. Kelly, III (“Kelly” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendants Morgan & Morgan, P.A., Morgan & Morgan Philadelphia Management, Inc., and Morgan & Morgan Philadelphia, PLLC (hereinafter collectively “Morgan & Morgan” or “Defendants”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendants’ unauthorized reproduction and public display of a copyrighted video of breaking news events, owned and registered by Kelly, a professional photographer and videographer. Accordingly, Kelly seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 et seq.

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendants because Defendants transact business in Pennsylvania.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

5. Kelly is a professional, award-winning photojournalist who has made his living for over 48 years selling and licensing his photographs and videos of breaking news events to online, print, and television media for a fee.

6. Kelly was awarded the Pulitzer Prize for Spot News Photography in 1979 in recognition of the exemplary nature of his photojournalistic skills in accurately capturing, as quickly as possible, events as they occur.

7. Kelly has a usual place of business at 770 E. High Street, #221, Pottstown, PA 19464.

8. Upon information and belief, Defendant Morgan & Morgan, P.A. is a corporation duly organized and existing under the laws of the State of Florida, with a principal address at 20 North Orange Ave, Suite 1600, Orlando, FL 32801.

9. Upon information and belief, Defendant Morgan & Morgan Philadelphia Management, Inc. is a corporation duly organized and existing under the laws of the State of Florida, with a principal address at 20 North Orange Ave, Suite 1600, Orlando, FL 32801..

10. Upon information and belief, Defendant Morgan & Morgan Philadelphia, PLLC is a professional limited liability company duly organized and existing under the laws of the State of Florida, its registered address being 20 North Orange Ave, Suite 1600, Orlando, FL 32801.

11. Defendant Morgan & Morgan Philadelphia, PLLC is registered with the Pennsylvania Department of State Division of Corporations, as entity number 6328801, to do business in the Commonwealth of Pennsylvania.

12. Upon information and belief, Defendant Morgan & Morgan Philadelphia Management, Inc. is the manager of Defendant Morgan & Morgan Philadelphia, PLLC.

13. Upon information and belief, Defendant Morgan & Morgan Philadelphia Management, Inc. has the right supervise and a direct financial interest in the activities of Defendant Morgan & Morgan Philadelphia, PLLC.

14. Upon information and belief, Defendants Morgan & Morgan, P.A., Morgan & Morgan Philadelphia Management, Inc., and Morgan & Morgan Philadelphia, PLLC are affiliated companies

15. Upon information and belief, Defendants conduct business in the Commonwealth of Pennsylvania through, without limitation, their usual place of business at 1800 John F. Kennedy Blvd., Suite 1401, Philadelphia, PA 19103.

16. At all times relevant hereto, one or more of the named Defendants has owned and operated a website at the URL www.forthethepeople.com (the “For the People Website”).

17. At all times relevant hereto, one or more of the named Defendants has had the right and ability to supervise the content of the For the People Website.

18. Each of the named Defendants has a direct financial interest in each of the activities complained of herein.

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Infringed Works

19. On or about June 25, 2017, Kelly produced video documenting the events surrounding a fatal fire in East Coventry, Pennsylvania, in which a nine-year-old boy perished (“the Fatal Fire”).

20. Kelly registered the copyright in the video of the Fatal Fire with the United States Copyright Office and was granted registration number PA 2-077-714 (“the Registration”). See Exhibit A.

21. Kelly is the author of the Work and all portions thereof and has, at all times, been the sole owner of all right, title and interest in and to the Work, including the copyright thereto and the Registration.

B. Defendant's Infringing Activities

22. On or about June 27, 2017, Defendants published an article on the For the People Wesbite titled *Pennsylvania Kitchen Fire Kills Boy, Injures Father* (the “Article”) at the URL www.forthethepeople.com/blog/penn-kitchen-fire/. A true and correct copy of the Article is attached hereto as Exhibit B.

23. The Article prominently featured the Work.

24. Defendants did not license any of the video comprising the Work from Plaintiff for Defendants' Article, nor did Defendant have Plaintiff's permission or consent to publish the Photograph on the For the People Website.

CLAIM FOR RELIEF

(COPYRIGHT INFRINGEMENT AGAINST DEFENDANTS)

25. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-24 above.

26. Defendants infringed Plaintiff's copyright in the Work by publicly displaying the registered copyrighted work of Plaintiff, namely the video comprising the Work, the copyright therein duly registered as the Registration, on the website identified herein.

27. Upon information and belief, Defendants infringed Plaintiff's copyright in the Work by reproducing the registered copyrighted work of Plaintiff, namely the video comprising the Work, the copyright therein duly registered as the Registration, on the website identified herein.

28. Defendants are not, and have never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Work or any portion thereof.

29. The acts of Defendants constitute infringement of Plaintiff's copyrights and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

30. Upon information and belief, the foregoing acts of infringement by Defendants have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

31. As a direct and proximate cause of the infringements by the Defendants of Plaintiff's copyrights and exclusive rights under the copyright laws, Plaintiff is entitled to damages for Defendants' willful infringement of the Works, pursuant to 17 U.S.C. § 504(c).

32. Plaintiff further is entitled to his full costs, including a reasonable attorney's fee, pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that:

1. Each of Defendants Morgan & Morgan, P.A., Morgan & Morgan Philadelphia Management, Inc., and Morgan & Morgan Philadelphia, PLLC be adjudged to have infringed upon Plaintiff's copyright in the Work in violation of 17 U.S.C §§ 106 and 501;
2. Each of the Defendants, their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted works of Plaintiff;
3. Each of the Defendants, jointly and severally, be ordered to pay to Plaintiff statutory damages for its acts of infringement pursuant to 17 U.S.C. § 504(c);
4. Each of the Defendants, jointly and severally, be ordered to pay to Plaintiff costs, including a reasonable attorney's fee, pursuant to 17 U.S.C. § 505; and
5. Plaintiff has such other and further relief as the Court may deem just and equitable.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

<***** SIGNATURE PAGE FOLLOWS *****>

Dated: June 25, 2020

CAESAR RIVISE, PC

By: _____

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